

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

SCOTTIE TERRY,

Plaintiff,

v.

Case No. CV409-161

LARRY CHISOLM, District  
Attorney for Chatham County,  
individually and in his official  
capacity,

Defendant.

**REPORT AND RECOMMENDATION**

Scottie Terry has filed another form 42 U.S.C. § 1983 complaint that is substantively identical to the complaint he filed in *Terry v. Chisolm*, CV409-151, which this Court has dismissed without prejudice.<sup>1</sup>

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<sup>1</sup> There the Court reasoned that,

[s]ince Terry's claim challenges the legality of his confinement, it falls within the "core" of habeas corpus and thus may not be bought under § 1983. But before he can pursue federal habeas relief, he must first exhaust his state remedies. Here, Terry represents that there exists a state criminal proceeding against him. If he believes that his current pretrial detention is unlawful, he has an available state remedy, for Georgia law recognizes the right of a person "restrained under any pretext whatsoever . . . [to] seek a writ of habeas corpus to inquire into the legality of the restraint." O.C.G.A. § 9-14-1(a).

*Id.* doc. 5. For the same reasons stated there, the Court should dismiss Terry's § 1983 complaint here, as it in substance presents the same claim dressed in more elaborate garb.<sup>2</sup>

**SO REPORTED AND RECOMMENDED** this 29th day of  
October, 2009.

s/ G.R. SMITH  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup> The Court otherwise **GRANTS** Terry's in forma pauperis petition. Doc. 2.